THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.549 of 2007

08.3.2007

Between:

Gunnam Babu Rao, S/o.Rama Rao
And another

... Petitioner

AND

The Secretary, Government of Andhra Pradesh,
Pranchayat Raj Department, Secretariat, Hyderabad
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.549 of 2007

ORDER:

The two petitioners are residents of Indrapalem village of Kakinada Rural Mandal in East Godavari District. They are eking out livelihood by doing mutton business. When there was a threat of dispossession from the Gram Panchayat, they filed a suit being O.S.No.496 of 1990 on the file of the Court of the I Additional District Munsif, Kakinada. They allege that their Advocate in the civil Court expired and they are not able to get any information about the progress of the suit. They further allege that there is no hindrance to others, but the third respondent is raising objection for doing mutton business on the road margin and also trying to interfere with the business activity. Therefore, they seek appropriate writ of Mandamus.

This Court while ordering notice before admission, on 05.1.2007, ordered *status quo* and directed the learned Standing Counsel to file counter affidavit. A counter affidavit is filed on 24.1.2007. It is stated that the first petitioner is not a resident of Indrapalem village, that he encroached road margin, raised a thatched house and leased out the same to third parties, who are carrying on chicken and mutton business. Due to these encroachments in the road margin, road has become narrow causing traffic congestion. The Department of Road and Buildings took up road widening work at an estimated cost of Rs.1.31 crores from Indrapalem Bridge to Cheediga Bridge with a distance of 1.5 KMs. In view of this, all the encroachers voluntarily removed their encroachments and shifted their business to the market place. The petitioners without approaching the Gram Panchayat for providing alternate place for business filed the present writ petition. Adverting to the civil suit, it is stated that the suit filed by the petitioners

being O.S.No.496 of 1990 against the Gram Panchayat for perpetual injunction was already dismissed and thereafter the present writ petition is filed.

The petitioners have not filed any reply affidavit denying the counter averments. Therefore, it stands proved that after losing their suit, petitioners filed the present writ petition. Secondly, as rightly contended by the learned Standing Counsel, petitioners have no right to occupy the road margin. If the petitioners seek alternate land for their business, they may approach the Gram Panchayat. In this writ petition, no relief can be granted. The interim order stands vacated.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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March 08, 2007 (**V.V.S.RAO,J**)

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